



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2015–N213]

[FVHC98210408710–XXX–FF04G01000]

***Deepwater Horizon* Oil Spill; Draft Phase V Early Restoration Plan and Environmental Assessment**

AGENCY: Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, the Federal and State natural resource trustee agencies (Trustees) have prepared a Draft Phase V Early Restoration Plan and Environmental Assessment (Draft Phase V ERP/EA) describing and proposing the first phase of the Florida Coastal Access Project. This early restoration project is intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The Draft

Phase V ERP/EA also includes notices of change and supporting analysis for two Phase III Early Restoration Projects: “Strategically Provided Boat Access Along Florida’s Gulf Coast – City of Port St. Joe, Frank Pate Boat Ramp Improvements” and “Florida Artificial Reef Creation and Restoration.”

DATES: *Comments Due Date:* We will consider public comments received on or before December 31, 2015.

Public Meeting Date:

Date	Time	Location
December 14, 2015	6:00 p.m. Open house 6:30 p.m. Public meeting	Gulf Coast State College, Student Union East, Room 231 (Gibson Lecture Hall), 5230 West U.S. Highway 98, Panama City, FL 32411

ADDRESSES:

Obtaining Documents: You may download the Draft Phase V ERP/EA by one of following methods:

- Via the Web: <http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>.

You may also view the document at any of the public facilities listed at

<http://www.gulfspillrestoration.noaa.gov>.

- Via U.S. mail, you may request a CD of the Draft Phase V ERP/EA (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: You may submit comments on the Draft Phase V ERP/EA by one of following methods:

- Via the Web: <http://www.gulfspillrestoration.noaa.gov>.
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

Public Meeting Location: Gulf Coast State College, Student Union East, Room 231 (Gibson Lecture Hall), 5230 West U.S. Highway 98, Panama City, FL 32411.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado, at 404-679-4161.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

Under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*), designated Federal and State agencies may act as trustees on behalf of the public to assess natural resource injuries and losses resulting from an oil spill and to determine the restoration actions needed to compensate the public for those injuries and losses. OPA instructs the trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality

and conditions that would exist if the spill had not occurred) is complete. For the *Deepwater Horizon* oil spill, designated trustees (Trustees) in four Federal agencies and all five Gulf States – Alabama, Florida, Louisiana, Mississippi, and Texas – have been working together to assess natural resource injuries and prepare a series of restoration plans described below.

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Background

In the April 2011 Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), BP agreed to provide to the Trustees up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources and is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the Trustees’ natural resource damages claim. Early restoration is not intended to and does not fully address all injuries caused by the *Deepwater Horizon* oil spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses, including recreational use losses, from the *Deepwater Horizon* oil spill.

This Notice addresses Phase V of the early restoration process. In four previous phases, the Trustees selected, and BP agreed to fund, a total of 64 early restoration projects expected to cost a total of approximately \$832 million. The Trustees selected these projects after public notice, public meetings, and consideration of public comments, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA), Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER), the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase

III ERP/PEIS), and the Phase IV Early Restoration Plan/Environment Assessments (Phase IV ERP/EA).

The Trustees released the Phase I ERP/EA on April 20, 2012 (77 FR 23741) and the Phase II ERP/ER on February 5, 2013 (78 FR 8184). The Trustees released the Phase III ERP/PEIS on June 26, 2014 (79 FR 36328), and subsequently approved that Plan and programmatic EIS in a Record of Decision on October 31, 2014 (79 FR 64831). The Trustees released the Phase IV ERP/EA on September 23, 2015 (80 FR 57384). These plans are available at: <https://www.doi.gov/deepwaterhorizon/adminrecord>

In the Draft Phase V Early Restoration Plan and Environmental Assessment announced in this Notice, the Trustees are proposing the first phase of the Florida Coastal Access Project to address lost recreational opportunities in Florida caused by the *Deepwater Horizon* oil spill. The proposed first phase of the Florida Coastal Access Project is consistent with the Programmatic ERP and PEIS included in the Final Phase III ERP/PEIS previously developed by the Trustees. The Draft Phase V ERP/EA is not intended to and does not fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and the environment whole.

Overview of the Draft Phase V ERP/EA

The Draft Phase V ERP/EA is being released in accordance with the Oil Pollution Act (OPA), the Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations (CFR) at 15 CFR 990, the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.

The Trustees are considering the first phase of the Florida Coastal Access Project in the Draft Phase V ERP/EA. The total estimated cost for the proposed first phase of the Florida Coastal Access Project is \$34,372,184. The total estimated cost of the proposed Florida Coastal Access Project is \$45,415,573. The Trustees will propose in an additional future phase similar restoration activities that would utilize the remaining \$11,043,389, if approved. Details on the proposed first phase of the Florida Coastal Access Project are provided in the Draft Phase V ERP/EA.

The proposed first phase of the Florida Coastal Access Project is intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered hundreds of projects leading to the identification of the Florida Coastal Access Project and considered both ecological and recreational use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing both the physical and biological environment, as well as the relationship people have with the environment.

The Draft Phase V ERP/EA also includes notices of change and supporting analysis for two Phase III Early Restoration Projects: “Strategically Provided Boat Access Along Florida’s Gulf Coast – City of Port St. Joe, Frank Pate Boat Ramp Improvements” and “Florida Artificial Reef Creation and Restoration.”

Next Steps

The Trustees have scheduled a public meeting to facilitate public review and comment on the Draft Phase V ERP/EA. Both written and verbal comments will be taken at the public meeting. The Trustees will hold an open house followed by a formal meeting. The public meeting will include a presentation of the Draft Phase V ERP/EA. After the public comment period ends, the Trustees will consider and address the comments received before issuing a final

Phase V Early Restoration Plan and Environmental Assessment (Final Phase V ERP/EA). After issuing a Final Phase V ERP/EA and if the Trustees approve the first phase of the Florida Coastal Access Project, the Trustees will file a negotiated stipulation for the approved Florida Coastal Access Project with the court. If approved, the first phase of the Florida Coastal Access Project will then proceed to implementation, pending compliance with all applicable State and Federal laws. The Trustees anticipate considering a second phase of this Florida Coastal Access Project through a future restoration plan that will be subject to a separate notice and public comment process.

Invitation to Comment

The Trustees seek public review and comment on the proposed first phase of the Florida Coastal Access Project and supporting analysis included in the Draft Phase V ERP/EA. Through this Notice of Availability, the Trustees are seeking public review and comment for only the Draft Phase V ERP/EA. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. You may submit comments on the Draft Phase V ERP/EA by one of the methods described in [ADDRESSES]:

This public review and comment process for the Draft Phase V ERP/EA is separate from the public comment processes for the *Deepwater Horizon Oil Spill Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement* (Draft PDARP/PEIS) and the proposed Consent Decree Among Defendant BP Exploration &

Production, Inc., the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas, which ends on December 4, 2015. For more information on the Draft PDARP/PEIS, please visit <http://www.gulfspillrestoration.noaa.gov>. A link for the proposed Consent Decree and directions for comment to the Department of Justice is available at <http://www.gulfspillrestoration.noaa.gov>.

Administrative Record

The documents comprising the Administrative Record for the Draft Phase V ERP/EA can be viewed electronically at the following location:

<https://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990.

Cynthia K. Dohner,

DOI Authorized Official.

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